



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed May 20, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephonic hearing was held on July 16, 2015, at Sparta, Wisconsin. At the request of petitioner, a hearing set for July 1, 2016 was rescheduled. At the request of petitioner's representative, [REDACTED], the record was held open for 45 days for the submission of new medical evidence regarding petitioner's medical need for CADT services. Petitioner's representative failed to submit any new medical evidence to DHA within 45 days of the hearing or even by the date of this decision.

The issue for determination is whether the Department correctly denied the petitioner's March 18, 2015 prior authorization (PA) request for Child Adolescent Day Treatment (CADT) for the period from March 12, 2015 to June 14, 2015, due to the provider's failure to timely submit the PA request, and not establish cost effective and appropriate when less expensive and appropriate services were available to meet petitioner's medical needs.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Representative:

[REDACTED], mental health coordinator
Northwest Journey – Black River Falls
N6643 County Road A
Black River Falls, WI 54615-5852

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], RN, mental health consultant
Office of the Inspector General (OIG)
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

[REDACTED]

ADMINISTRATIVE LAW JUDGE:
Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 15 year old resident of Monroe County who resides with her mother, [REDACTED], and her sister. Ms. [REDACTED] is divorced from petitioner's father, [REDACTED], who petitioner visits every other weekend.
2. The petitioner is diagnosed with depression, anxiety, social anxiety disorder, and suicidal thoughts for about the past two years.
3. The petitioner is a sophomore at [REDACTED] High school and has truancy problems at school.
4. The petitioner is seeing a therapist in [REDACTED] for her mental health problems, and also consults a psychiatrist, [REDACTED] for medication management.
5. The petitioner was admitted to the Gundersen Lutheran inpatient adolescent psychiatric unit on December 22, 2014 and was discharged on January 7, 2015. Due to suicidal ideation, the petitioner was referred for child adolescent day treatment (CADT) by Gundersen Lutheran.
6. On March 18, 2015, the petitioner with her provider, Northwest Journey—Black River Falls, requested 13 weeks of Child/Adolescent Day Treatment (CADT) services five hours a day, five days a week at a cost of \$26,000 with a retroactive start date of March 12, 2015 (6 days prior to the submission of the PA).
7. On March 30, 2015, the provider submitted late the required PA forms and attachments (PA/CADTA), prescription, and HealthCheck verification.
8. On April 7, 2015, the PA was returned to the provider because the provider failed to include the psychiatrist's evaluation.
9. On April 13, 2015, the provider submitted psychiatrist's ([REDACTED]) April 7, 2015 evaluation of the petitioner, and thus did not submit all of the required prior authorization forms to OIG until April 13, 2015. The April 13, 2015 psychiatrist submission was four weeks after the petitioner started in the CADT program.
10. The petitioner was enrolled in an HMO as of May 1, 2015.
11. The Department sent an April 20, 2015 notice to the petitioner denying the petitioner's PA request for CADT services due to other less expensive and appropriate services are available which may safely and effectively meet the member's medical needs.
12. The petitioner began receiving CADT services at Northwest Journey—Black River Falls from March 12, 2015 to June 14, 2015.
13. The provider failed to timely submit the following documentation in her PA or later submissions to the Department: a) a suicide assessment or document by a licensed clinician. The suicide assessment is required to include detailed information about an individual's threats of suicide, her thoughts of suicide, access to methods of suicide, and the clinician's assessment of the individual's risk of suicide; b) failed to document the steps taken to assure the member's safety outside of the CADT program and within the CADT program; c) the provider failed to document whether the member's access to the method of suicide was removed, and the follow-up suicide plan; and d) failed to establish that the petitioner met the Severe Emotional Disturbance (SED) eligibility criteria.

14. The OIG mental health consultant, [REDACTED], sent a detailed 9 page June 17, 2015 summary to the petitioner and to DHA which stated the following four reasons for the denial of the requested CADT services for petitioner: a) the provider failed to timely submit the required prior authorization and required documentation to OIG prior to the March 12, 2015 start of CADT services for petitioner; b) the provider failed to establish that petitioner met SED criteria to be eligible for coverage of CADT, a Health Check services; c) the provider failed to establish that the requested CADT services were cost-effective as compared to alternative services; and d) provider failed to establish CADT services to be the most appropriate service that can safely and effectively be provided for the petitioner.
15. The record was held open for 45 days for the submission of new medical evidence regarding petitioner's need for CADT services and to respond to [REDACTED] June 17, 2015 submission. Petitioner's representative failed to submit any response or new medical evidence to DHA within 45 days of the hearing or even by the date of this decision. See above Preliminary Recitals.

DISCUSSION

The petitioner and her provider, Northwest Journey- Black River Falls, seek reimbursement for 13 weeks of Child/Adolescent Day Treatment Services at a cost of \$26,000. The Office of Inspector General denied the request for a variety of reasons, including that the services were provided before the request was made and proper documentation was submitted, and the requested CADT was not established to be cost effective and appropriate.

The Office of Inspector General indicates that this is a "HealthCheck—Other Service" covered under Wis. Admin. Code, § DHS 107.22(4), a catch-all category applying to any service described in the definition of "medical assistance" found at 42 USC 1396d(a). Day treatment mental health services for children under 18 are more specifically covered by Wis. Admin. Code, Chapter DHS 40. To qualify for services, a child "must have a primary psychiatry diagnosis of mental illness or severe emotional disorder." Wis. Admin. Code, § DHS 40.08(3)(a). "Mental illness" is defined as a "medically diagnosable mental health disorder which is severe in degree and which substantially diminishes a child's ability to carry out activities of daily living appropriate for the child's age." Wis. Admin. Code, § DHS 40.03(16). Each child is evaluated by a psychologist or psychiatrist and has a treatment plan approved by a program. Wis. Admin. Code, §§ DHS 40.08(4) and 40.09(2)(c). Like any medical assistance service, it must be **medically necessary, cost-effective, and an effective and appropriate** use of available services. It must also meet the "limitations imposed by pertinent...state...interpretations." Wis. Admin. Code § DHS 107.02(3)(e)1.,2.,3.,6., 7, and 9. Wis. Admin. Code.

"Medically necessary" is defined in Wis. Admin. Code § DHS 101.03(96m) as a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
 - 1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
 - 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 - 3. Is appropriate with regard to generally accepted standards of medical practice;
 - 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 - 5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
 - 6. Is not duplicative with respect to other services being provided to the recipient;
 - 7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;

- [REDACTED]
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
 9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Northwest Journey requested 13 weeks of CADT services for the petitioner at a cost of \$26,000 on March 18, 2015, six days after she began receiving the services on March 12, 2015 and four weeks before provider submitted the required complete PA documentation to the Office of Inspector General on April 13, 2015. See Finding of Fact #9 above.

Wis. Admin. Code, § DHS 107.02(3)(c) states: “If prior authorization is not requested and obtained **before** a service requiring prior authorization is provided, reimbursement shall not be made except in extraordinary circumstances such as emergency cases where the department has given verbal authorization for a service.” This rule is not absolute. Wis. Admin. Code, § DHS 106.03(4)(a), which is found in the chapter in the administrative code pertaining to the provider’s rights and responsibilities, allows an exception to this general rule “[w]here the provider’s initial request for prior authorization was denied and the denial was either rescinded in writing by the department or overruled by an administrative or judicial order.” In this case, petitioner’s provider did not timely submit its PA for petitioner, and did not obtain timely verbal authorization for CADT services for petitioner.

This rule is needed because it can often take weeks or months for the Division to review requests for needed therapy. This especially creates problems if the request is for continuing or follow-up services and the lack of approval can interrupt ongoing treatment. But the preferred method is for the Office to review the request before services begin because it, unlike the Division of Hearings and Appeals, has medical training in the area under review that allows it to provide an expert opinion on whether the service is necessary. When reviewing a matter in which the services begin before being approved, Hearings and Appeals must look at all of the circumstances of the case.

The petitioner and his provider have the burden of proving that the requested services are medically necessary and cost-effective. By receiving therapy from Northwest Journey before submitting his request, she prevented the Division from adequately determining whether those services were medically necessary and cost-effective when compared to other potentially available services. Although she has significant problems, neither the evidence in the file nor the testimony at the hearing established that waiting a few weeks for the Division to review his matter to determine whether the requested services were medically necessary and cost-effective would have significantly hindered her recovery. Therefore, the exception in Wis. Adm. Code, § DHS 107.02(3)(c) to the general rule that recipients must obtain prior authorization before receiving services does not apply.

It is relevant that this is at least the seventh time that one of Northwest Journey’s branches has begun services before submitting a complete prior authorization request. See *DHA Decision Nos. MPA [REDACTED] MPA/[REDACTED] MPA/[REDACTED] MPA/[REDACTED] MPA/[REDACTED] and MPA/[REDACTED]*. Moreover, even if the request had been filed on time, the petitioner has not met her burden of showing that this CADT PA request is cost-effective, appropriate, and medically necessary treatment. The petitioner receives regular, ongoing therapy with a mental health therapist, and also consults a psychiatrist, [REDACTED] for medication management.

During the July 16, 2015 hearing, neither the petitioner’s representative nor the petitioner’s mother were able to present any specific, reliable testimony or evidence to refute any of the four (4) Departmental reasons for denial of the CADT request, as indicated in Finding of Fact #14 above. Instead, the testimony of both Ms. [REDACTED] and Ms. [REDACTED] was rather disorganized, vague and lacking in sufficient specificity to be reliable or persuasive. Furthermore, the record was held open for 45 days for the

submission of new medical evidence regarding petitioner's medical or psychiatric need for CADT services and to respond to [REDACTED] June 17, 2015 submission. Petitioner's representative failed to submit any response or new medical evidence to DHA within 45 days of the hearing or even by the date of this decision. Neither Ms. [REDACTED] nor her mother was able to refute with any convincing evidence that OIG incorrectly denied the petitioner's PA request. Accordingly, for the above reasons, I conclude that the Department correctly denied the requested Child Adolescent Day Treatment (CADT) services because the petitioner began receiving those services before properly and timely submitting the complete PA request, because she failed to establish that the CADT services were cost-effective and medically necessary.

CONCLUSIONS OF LAW

The Department correctly denied the petitioner's March 18, 2015 prior authorization (PA) request for Child Adolescent Day Treatment (CADT) for the period from March 12, 2015 to June 14, 2015, due to the provider's failure to timely submit the PA request and not establish cost effective and appropriate when less expensive and appropriate services were available to meet petitioner's medical needs.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING


You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

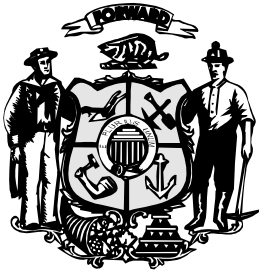
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).


The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 30th day of September, 2015

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 30, 2015.

Division of Health Care Access and Accountability